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E-Filed on November 9, 2009

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UNITED STATES DEPARTMENT OF JUSTICE

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SARA L. KISTLER

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

RAYMOND CARVALHO,

Debtor.

CASE NO: BK-S-08-18289-mkn

Chapter 7

Date: N/A

Time: N/A

THE ACTING UNITED STATES TRUSTEE'S

DECLINATION STATEMENT UNDER 11 U.S.C. § 704(b)(2)

The Acting United States Trustee declines to file a motion to dismiss this case under 11 U.S.C. § 707(b)(2). Based on currently available information and under the specific facts and circumstances of this case, the Acting United States Trustee is exercising the discretion permitted under 11 U.S.C. § 704(b)(2). This decision is based on the following:

1. Raymond Carvalho filed a voluntary petition under Chapter 13 of the Bankruptcy Code on July 26, 2008. His case was voluntarily converted to one under Chapter 7 on September 28, 2009.

2. Mr. Carvalho's debts are primarily consumer debts [Docket #1, Page 1].

3. As required by 11 U.S.C. § 704(b)(1)(A), the Acting United States Trustee filed a Statement of Presumed Abuse in this case on November 9, 2009 [Docket #72].

1 4. Section 704(b)(2) of the Bankruptcy Code provides:

2 The United States trustee (or bankruptcy administrator, if any) shall, not
3 later than 30 days after the date of filing a statement under [§ 704(b)(1)],
4 either file a motion to dismiss or convert under section 707(b) or file a
5 statement setting forth the reasons the United States trustee (or the
6 bankruptcy administrator, if any) does not consider such a motion to be
7 appropriate, if the United States trustee (or the bankruptcy administrator,
8 if any) determines that the debtor's case should be presumed to be an
9 abuse under § 707(b) and the product of the debtor's current monthly
10 income, multiplied by 12 is not less than [the applicable median family
11 income amount].

12 5. Based upon currently available information, the Acting United States Trustee will not
13 file a motion to dismiss based on the presumption of abuse because the debtor has explained and
14 documented circumstances that justify declining to prosecute a motion to dismiss for presumed
15 abuse.

16 6. Specifically, the debtor has provided credible testimony under oath and verifiable
17 proof that his income has significantly declined post-petition.

18 **Based on the foregoing**, the Acting United States Trustee does not consider a motion to
19 dismiss under 11 U.S.C. § 707(b)(2) to be appropriate in this case.

20 Dated: November 9, 2009

21 Respectfully submitted,

22 **SARA L. KISTLER**
23 **ACTING UNITED STATES TRUSTEE**
24 **REGION 17**

25 By: /s/ J. Michal Bloom
26 J. Michal Bloom, Esq.
27 United States Department of Justice
28 Attorney for the Acting United States Trustee